

or 1099 on magnetic tape or other media, see § 1.9101-1. For the requirement to submit the information required by Form 1099 on magnetic media for payments after December 31, 1983, see section 6011(e) and § 301.6011-2 of this chapter (Procedure and Administration Regulations).

[T.D. 6628, 27 FR 12796, Dec. 29, 1962, as amended by T.D. 6677, 28 FR 10147, Sept. 17, 1963; T.D. 6879, 31 FR 3493, Mar. 8, 1966; T.D. 6883, 31 FR 6589, May 3, 1966; T.D. 7000, 34 FR 996, Jan. 23, 1969; T.D. 7187, 37 FR 13258, July 6, 1972; T.D. 8734, 62 FR 53474, Oct. 14, 1997; T.D. 8804, 64 FR 11378, Mar. 9, 1999; T.D. 8895, 65 FR 50406, Aug. 18, 2000]

§ 1.6042-3 Dividends subject to reporting.

(a) *In general.* Except as provided in paragraph (b) of this section, the term *dividend* for purposes of this section and §§ 1.6042-2 and 1.6042-4 means the amounts described in the following paragraphs (a) (1) through (3) of this section—

(1) Any distribution made by a corporation to its shareholders which is a dividend as defined in section 316; and

(2) Any payment made by a stockbroker to any person as a substitute for a dividend. Such a payment includes any payment made in lieu of a dividend to a person whose stock has been borrowed. See § 1.6045-2(h) for coordination of the reporting requirements under sections 6042 and 6045(d) with respect to such payments; and

(3) A distribution from a regulated investment company (irrespective of the fact that any part of the distribution may not represent ordinary income (i.e., may, for example, represent a capital gain dividend as defined in section 852(b)(3)(C)).

(b) *Exceptions*—(1) *In general.* For purposes of §§ 1.6042-2 and 1.6042-4, the amounts described in paragraphs (b)(1)(i) through (vii) of this section are not dividends.

(i) Amounts paid by an insurance company to a policyholder, other than a dividend upon its capital stock.

(ii) Payments (however denominated) by a mutual savings bank, savings and loan association, or similar organization, in respect of deposits, investment certificates, or withdrawable or repurchasable shares. See, however, section 6049 and the regulations under

that section for provisions requiring reporting of these payments.

(iii) Distributions or payments that a payor can, prior to payment, reliably associate with documentation upon which it may rely to treat as made to a foreign beneficial owner in accordance with § 1.1441-1(e)(1)(ii) or as made to a foreign payee in accordance with § 1.6049-5(d)(1) or presumed to be made to a foreign payee under § 1.6049-5(d) (2), (3), (4), or (5). However, such payments may be reportable under § 1.1461-1(b) and (c). For purposes of this paragraph (b)(1)(iii), the provisions in § 1.6049-5(c) (regarding rules applicable to documentation of foreign status and definition of U.S. payor and non-U.S. payor) shall apply. The provisions of § 1.1441-1 shall apply by substituting the term *payor* for the term *withholding agent* and without regard to the fact that the provisions apply only to amounts subject to withholding under chapter 3 of the Internal Revenue Code (Code).

(iv) Distributions or payments from sources outside the United States (as determined under the provisions of part I, subchapter N, chapter 1 of the Code and the regulations under those provisions) paid outside the United States by a non-U.S. payor or a non-U.S. middleman. For a definition of non-U.S. payor and non-U.S. middleman, see § 1.6049-5(c)(5). For circumstances in which a payment is considered to be made outside the United States, see § 1.6049-5(e).

(v) Distributions or payments for the period that the amounts represent assets blocked as described in § 1.1441-2(e)(3). The exemption in this paragraph (b)(1)(v) shall terminate when payment is deemed to occur in accordance with the rules of § 1.1441-2(e)(3).

(vi) Payments made by a foreign intermediary described in § 1.1441-1(c)(13) of amounts that it has received in its capacity as an intermediary and that are associated with a valid withholding certificate described in § 1.1441-1(e)(3)(ii) or (iii) and payments made by a U.S. branch of a foreign bank or of a foreign insurance company described in § 1.1441-1(b)(2)(iv) (other than a U.S. branch that is treated as a U.S. person) that are associated with a valid withholding certificate described in § 1.1441-

1(e)(3)(v), which certificate the intermediary or branch has furnished to the payor or middleman from whom it has received the payment, unless, and to the extent, the intermediary or branch knows that the payments are required to be reported under §1.6042-2 and were not so reported. For example, if a foreign intermediary or U.S. branch described in §1.1441-1(b)(2)(iv) fails to provide information regarding U.S. persons that are not exempt from reporting under §1.6049-4(c)(1)(ii) to the person from whom the intermediary or U.S. branch receives the payment, the amount paid by the foreign intermediary or U.S. branch to such person is a dividend. The exception of this paragraph (b)(1)(vi) shall not apply to a qualified intermediary that assumes reporting responsibility under chapter 61 of the Internal Revenue Code.

(vii) With respect to amounts paid or credited after December 31, 1982, any amount paid or credited to any person described in §1.6049-4(c)(1)(ii), unless a tax is withheld under section 3406 and is not refunded by the payor in accordance with §31.6413(a)-3 of this chapter (Employment Tax Regulations).

(2) *Payor.* The term *payor* has the same meaning as described in §1.6049-4(a)(2).

(3) *Joint owners.* Amounts paid to joint owners for which a certificate or documentation is required as a condition for being exempt from reporting under this paragraph (b) are presumed made to U.S. payees who are not exempt recipients if, prior to payment, the payor or middleman cannot reliably associate the payment either with a Form W-9 furnished by one of the joint owners in the manner required in §§31.3406(d)-1 through 31.3406(d)-5 of this chapter, or with documentation described in paragraph (b)(1)(iii) of this section furnished by each joint owner upon which it can rely to treat each joint owner as a foreign payee or foreign beneficial owner. For purposes of applying this paragraph (b)(3), the grace period described in §1.6049-5(d)(2)(ii) shall apply only if each payee qualifies for such grace period.

(4) *Conversion into United States dollars of amounts paid in foreign currency.* For rules concerning foreign currency conversion, see §1.6049-4(d)(3)(i).

(5) *Effective date*—(i) *General rule.* The provisions of this paragraph (b) apply to payments made after December 31, 2000.

(ii) *Transition rules.* The validity of a withholding certificate (namely, Form W-8 or other form upon which the payor is permitted to rely to hold the payee as a foreign person) that was valid on January 1, 1998, under the regulations in effect prior to January 1, 2001 (see 26 CFR parts 1 and 35a, revised April 1, 1999) and expired, or will expire, at any time during 1998, is extended until December 31, 1998. The validity of a withholding certificate that is valid on or after January 1, 1999, remains valid until its validity expires under the regulations in effect prior to January 1, 2001 (see 26 CFR parts 1 and 35a, revised April 1, 1999) but in no event shall such withholding certificate remain valid after December 31, 2000. The rule in this paragraph (b)(5)(ii), however, does not apply to extend the validity period of a withholding certificate that expires solely by reason of changes in the circumstances of the person whose name is on the certificate. Notwithstanding the first three sentences of this paragraph (b)(5)(ii), a payor may choose not to take advantage of the transition rule in this paragraph (b)(5)(ii) with respect to one or more withholding certificates valid under the regulations in effect prior to January 1, 2001 (see 26 CFR parts 1 and 35a, revised April 1, 1999) and, therefore, to require withholding certificates conforming to the requirements described in this section (new withholding certificates). For purposes of this section, a new withholding certificate is deemed to satisfy the documentation requirement under the regulations in effect prior to January 1, 2001 (see 26 CFR parts 1 and 35a, revised April 1, 1999). Further, a new withholding certificate remains valid for the period specified in §1.1441-1(e)(4)(ii), regardless of when the certificate is obtained.

(c) *Special rule.* If a person makes a payment which may be a dividend, or if a nominee receives a payment which may be a dividend, but such person or nominee is unable to determine the portion of the payment which is a dividend (as defined in paragraphs (a) and

(b) of this section) at the time he files his return under § 1.6042-2, he shall, for purposes of such section, treat the entire amount of such payment as a dividend.

[T.D. 6628, 27 FR 12797, Dec. 28, 1962, as amended by T.D. 6908, 31 FR 16774, Dec. 31, 1966; T.D. 7987, 49 FR 42719, Oct. 24, 1984; T.D. 8029, 50 FR 23680, June 5, 1985; T.D. 8734, 62 FR 53475, Oct. 14, 1997; T.D. 8804, 63 FR 72186, Dec. 31, 1998; 64 FR 73411, Dec. 30, 1999; T.D. 8881, 65 FR 32205, May 22, 2000]

§ 1.6042-4 Statements to recipients of dividend payments.

(a) *Requirement.* A person required to make an information return under section 6042(a)(1) and § 1.6042-2 must furnish a statement to each recipient whose identifying number is required to be shown on the related information return for dividend payments.

(b) *Form of the statement.* The statement required by paragraph (a) of this section must be either the official Form 1099 prescribed by the Internal Revenue Service for the respective calendar year or an acceptable substitute statement that contains provisions that are substantially similar to those of the official Form 1099 for the respective calendar year. For further guidance on how to prepare an acceptable substitute statement, see Rev. Proc. 95-30 (1995-27 I.R.B. 9) (or its successor), republished as ‘Rules and Specifications for Private Printing of Substitute Forms 1096, 1098, 1099 Series, 5498, and W-2G.’ See § 601.601(d)(2) of this chapter.

(c) *Aggregation of payments.* A payor may aggregate on one Form 1099 all payments made to a recipient with respect to each separate account during a calendar year.

(d) *Manner of providing statements to recipients—(1) In general.* The Form 1099, or acceptable substitute statement, must be provided to the recipient either in person or by first-class mail to the recipient’s last known address in a statement mailing.

(2) *Statement mailing requirement.* The mailing required under section 6042(c) of a Form 1099 to a payee-recipient must qualify as a statement mailing. A statement mailing must contain the required Form 1099 or acceptable substitute statement (written statement)

and must comply with enclosure and envelope restrictions.

(i) *Enclosure restrictions.* To qualify as a statement mailing, the mailing cannot contain any enclosures except those listed in this paragraph (d)(2)(i). Moreover, no promotional or advertising material is permitted in the mailing of the written statement. Even a *de minimis* amount of promotional or advertising material violates the statement mailing requirement. However, a logo on the envelope containing the written statement and on nontax enclosures described in paragraph (d)(2)(i) (A) through (D) of this section does not violate the written statement requirement. The written statement required under section 6042(c) and paragraph (a) of this section may be perforated to a check or to a statement of the recipient-payee’s specific account with the payor described in paragraph (d)(2)(i) (A) or (C) of this section. The enclosure to which the written statement is perforated must contain, in a bold and conspicuous type, the legend: ‘Important Tax Return Document Attached.’ The enclosures permitted in a mailing are limited to—

(A) A check with respect to the account reported on the written statement;

(B) A letter explaining why a check with respect to such account is not enclosed with the written statement (for example, because a dividend has not been declared payable);

(C) A statement of the taxpayer-recipient’s specific account with the payor if payments on such account are reflected on the written statement;

(D) A letter limited to an explanation of the tax consequences of the information set forth on the enclosed written statement;

(E) Payee statements related to other Forms 1099, Form 1098, and Form 5498 (or the account balance on a Form 5498), Forms W-2 and W-2G; and

(F) Any document concerning the solicitation of the Form W-9, as described in § 31.3406(h)-3(a) of this chapter, or of the Form W-8 as described in § 1.1441-1(e)(1).

(ii) *Envelope and delivery restrictions—(A) Envelope restrictions.* The outside of the envelope in which the written statement is mailed and each nontax